


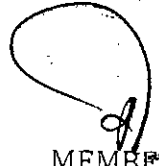

2021 (64)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 851 /2021 21

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/01/2021	<p>The appeal presented today by Mr. Mujeebullah Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08-02-21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>3/3/21</u></p> <p style="text-align: right;"> MEMBER(J)</p>
03.03.2021		<p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 28.07.2021.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No..... /2021

HABIBA BIBI

VS

Govt of KP through Secretary E & SE) & others

INDEX OF DOCUMENTS

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1-2
2.	Copy of Notification dated 20/12/2012	A	3
3.	Copies of Pay slips	B&C	4-5
4.	Copy of Departmental appeal/representation	D	6
5.	Copy of Judgment dated 11/11/2019	E	7-8
6.	Wakalatnama		9

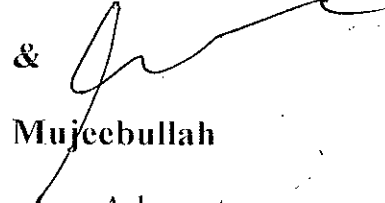

Appellant

Through

M. Ashfaq Khan Akhunkhail

Syed Zeshan Khan

&


Mujeebullah

Advocates

Khalid & Law Associates
46-C, 2nd Floor, Cantonment Plaza,
Peshawar Saddar
Cell No. 0333-8522332
Ashfaqkhan182@gmail.com

Dated:

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 851 /2021

HABIBA BIBI

Presently serving as PST (BPS 12) in GGPS LACHA PAYEEN Dir Lower

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 976

Dated 14/11/2021

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar
3. The Secretary Finance Khyber Pakhtunkhwa, Peshawar
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar
5. The Director (E&SE) Department. Khyber Pakhtunkhwa, Peshawar

(RESPONDENTS)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this Appeal the Respondents may kindly be directed not to make deduction of conveyance allowance during vacations period(Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

FACTS:

1. That the Appellant is serving in the Elementary and Secondary Education department as Primary School Teacher (BPS-12) quiet efficiently and up to the entire satisfaction of the superiors.
2. That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No.FD(PRC) 1-1/2011 dated 14-07-2011 was issued.
3. That later on the finance department enhanced/ revise the rate of conveyance Allowance vide Notification dated 20-12-2012 for civil servants (BPS-1-15) but Respondents have treated the Appellants under the previous notification by not enhancing their conveyance allowance.

(Copy of the Notification are attached as annexure A)

4. That Appellant was receiving the conveyance allowances as admissible under the law and rules but the Respondents without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. (Copies of the Salary slips of working/serving month and vacations deduction period are attached as annexure B&C)
5. That similar placed employees of Elementary & Secondary Education Department (hereinafter referred as E & S Education Department) approached this August Tribunal and their grievance was redressed vide judgment dated 11-11-2019. (Copy of Judgment dated 11/11/2019 is attached as annexure D)
6. That being aggrieved from the illegal action of deduction of conveyance allowance, the Appellant preferred departmental appeal before the competent authority but the same has not been responded by Respondents within the statutory period of ninety days. (Copy of departmental appeal is annexed as annexure E)
7. That feeling aggrieved from action and inaction of the Respondents and having no other remedy available, hence, the Appellant approaches this Hon'ble Court inter alia on the following grounds.

Filed to-day
Registrar
14/11/21

A-9

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO/SR/118/57/2017
Dated: Peshawar, 15/12/2017

From: The Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
Peshawar.

To: The Administrative Officer, Government of Khyber Pakhtunkhwa
The Senior Member, Board of Revenue, Peshawar
The Secretary, Government of Khyber Pakhtunkhwa
The Secretary, Finance Department, Government of Khyber Pakhtunkhwa
The Director, Finance Department, Government of Khyber Pakhtunkhwa
The Director, Finance Department, Government of Khyber Pakhtunkhwa
The Registrar, Peshawar High Court
The Chairman, Public Service Commission, Khyber Pakhtunkhwa
The Chairman, Khyber Tribal Tribes Commission

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE
CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL
GOVERNMENT P.S.

Over SE: The Government of Khyber Pakhtunkhwa has been pleased to revise the rate of conveyance allowance payable to all the provincial civil servants of the Government of Khyber Pakhtunkhwa (including P.S. and P.S.S.) from 15/12/2017 at the following rates. However, the conveyance allowance for employees in P.S.S. to P.S. is nil.

S.NO	B.P.S.	EXISTING RATE (PKR)	REVISED RATE (PKR)
1	1-4	RS. 1,700/-	RS. 1,700/-
2	5-10	RS. 2,000/-	RS. 2,140/-
3	11-15	RS. 2,600/-	RS. 2,720/-
4	16-19	RS. 3,000/-	RS. 3,120/-

2. Conveyance Allowance at the above rates per month shall be admissible to those P.S. 17, 18 and 19 posts who have not been sanctioned official vehicle.

Yours Faithful

(Signature)
Secretary

Encl: NO. FD/SO/SR/118/57/2017

A copy is forwarded for information to the

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Secretary to Government of Khyber Pakhtunkhwa
Finance Department
Peshawar

(Signature)

3/1

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

No. FD/SO(SR-II)/52/2012
Dated Peshawar the: 20.12.2012

From

The Secretary to Govt of Khyber Pakhtunkhwa
Finance Department, Peshawar

To,

1. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of attached Departments in Khyber Pakhtunkhwa
7. All District Coordination Officers of Khyber Pakhtunkhwa
8. All Political Agents / District & Session Judge in Khyber Pakhtunkhwa
9. The Registrar Peshawar High Court, Peshawar
10. The Chairman Public Service Commission, Khyber Pakhtunkhwa
11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa

Subject:- REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance/revise the rate of conveyance Allowance admissible to all the Provincial Civil Servants Govt of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain un-changed.

S. No	BPS	Existing Rate (PM)	Revised Rate (PM)
1.	1-4	Rs. 1500/-	Rs. 1700/-
2.	5-10	Rs. 1500/-	Rs. 1840/-
3.	11-15	Rs. 2000/-	Rs. 2720/-
4.	16-19	Rs. 5000/-	Rs. 5000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 Officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saad Ahmad)
Secretary Finance

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Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

Dist. Govt. KP-Provincial
District Accounts Office Dir at Timargar
Monthly Salary Statement (July-2020)



Personal Information of Mr HABIBA BIBI d/w/s of NOOR ALI JAN

Personnel Number: 00863683 CNIC: 1530512654980

NTN:

Date of Birth: 01.06.1994 Entry into Govt. Service: 01.04.2017

Length of Service: 03 Years 04 Months 001 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER

80710978-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6324-Dir Lower

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No. 863683

Interest Applied: Yes

GPF Balance:

44,197.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 12

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	16,200.00	1000	House Rent Allowance	1,961.00
1300	Medical Allowance	1,500.00	1923	UAA-OTHER 20%(1-15)	1,000.00
2211	Adhoc Relief All 2016 10%	1,114.00	2224	Adhoc Relief All 2017 10%	1,620.00
2247	Adhoc Relief All 2018 10%	1,620.00	2264	Adhoc Relief All 2019 10%	1,620.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3534	R. Ben & Death Comp Fresh	-600.00	3990	Emp.Edu. Fund KPK	-125.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 0.00 Recovered till JUL-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 26,635.00 Deductions: (Rs.): -3,545.00 Net Pay: (Rs.): 23,090.00

Payee Name: HABIBA BIBI

Account Number: 11047900380503

Bank Details: HABIB BANK LIMITED, 221104 KUMBER DIR KUMBER, KUMBER DIR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: ZAIMDARA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp Address:

City:

Email: habibabibi15305@gmail.com

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To

The Director, (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER & SUMMER VACATIONS.

Respected Sir,

With due respect it is stated that I am the employee of your good self-Department and is serving as PST (BPS-12) quite efficiently and up to the entire satisfaction of the superiors. It is stated for kind information that conveyance allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. Later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for working in BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Respected sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. One of the employee of education department in Islamabad filed service appeal No.1888 (R) CS/2016 before the federal service tribunal, Islamabad regarding conveyance allowance which was accepted by the honorable service tribunal vide its judgment dated 03.12.2018. That I also the similar employee of education department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granted to other employees. **Copy attached.** I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 16.08.2020

Yours Sincerely

Habiba Bibi

HABIBA BIBI

PST (BPS 12) in GGPS LACHA PAYEEN Dir Lower

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D-78-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 1452 /2019

Mr. Mansad Hayat, SCT (BPS-16),
GHS Masho Gaggar, Peshawar.....

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed today
Registrar
24/10/19

R/SHEWETH:

ATTESTATION FACTS:

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

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Appeal No 1452/2019
Mazbad Hayat vs Govt

(8)

11.11.2019

Counsel for the appellant present

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

filed in the true copy
EXAMINER
Hyderabad
Service Tribunal
Peshawar

File be consigned to the record

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Chairman

ANNOUNCED

11.11.2019

M

[Signature]

یونیورسٹی جامعہ اسلامیہ مدرسہ اسلامیہ پشاور

مستجاب ایملڈ

Grant of Habiba Bibi etc نام

دعوی ایملڈ

باعتبار

مستجاب شدہ دعویٰ بالاسم ایملڈ کے واسطے پیروی و جواب دہی وکل کارڈ ایملڈ مستحلف ان مقام پشاور
 کیلئے محمد اسحاق خان اوجیل، محمد امجد علی کیٹ، ہائی کورٹ کو وکیل مقرر کرنے اور ایملڈ کے صاحب
 موصوف کو مقدمہ کی کل کارڈ ایملڈ کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے یا یعنی اور دیگر ثالث و نایبہ عطف
 دینے جواب دہی اور ایملڈ دعویٰ اور لہجہ ڈگری کرنے اجراء اور وصولی چیک در پیہ اور وصولی دعویٰ اور درخواست
 ہر قسم کی تصدیق اور اس پر عمل کرانے کا اختیار ہوگا نیز لہجہ ڈگری مسم پیروی یا ڈگری بل طرفہ یا ایملڈ کی برادری
 اور وصولی ایملڈ کے ایملڈ نگران و نظرائی و پیروی کرنے کا اختیار ہوگا اور لہجہ ڈگری ضرورت مند ہونے پر
 کے کل یا ہجرتوں کا کارڈ ایملڈ کے واسطے اور وکیل یا مقرر قانونی کو اپنے ہمراہ یا اپنی بجائے لہجہ ڈگری کا اختیار ہوگا
 اور وہ اپنے مقرر شدہ کو نہیں وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنتہ پر واجبہ منقولہ
 قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مندرجہ کے سبب ہوگا اس کے مستحق وکیل صاحب
 موصوف ہوں گے نیز لہجہ ڈگری وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روزہ
 پر ہو یا مدت باہر ہو اور وکیل صاحب یا ہجرت ہوں گے کہ پیروی مذکور کریں
 لہذا نکالت نامہ دیکھ دیا کہ مستند ہے۔

الرفیق

القلم القلم القلم

Habiba

محمد امجد علی کیٹ
 محمد اسحاق خان اوجیل

محمد اسحاق خان اوجیل
 اڈووکیٹ

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